



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: Louis Felice
DOCKET NO.: 10-26622.001-R-1
PARCEL NO.: 13-35-223-007-0000

The parties of record before the Property Tax Appeal Board are Louis Felice, the appellant(s), by attorney Brian P. Liston, of Law Offices of Liston & Tsantilis, P.C. in Chicago; and the Cook County Board of Review.

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the Cook County Board of Review is warranted. The correct assessed valuation of the property is:

**LAND: \$ 5,800
IMPR.: \$ 7,395
TOTAL: \$ 13,195**

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Cook County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2010 tax year. The Property Tax Appeal Board (the "Board") finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject consists of a two-story dwelling of masonry construction with 2,460 square feet of living area. The dwelling is 103 years old. Features of the home include two baths, a full unfinished basement, and a two-car garage. The property has a 3,625 square foot site, and is located in Jefferson Township, Cook County. The subject is classified as a class 2-11 property under the Cook County Real Property Assessment Classification Ordinance.

The appellant contends overvaluation as the basis of the appeal. In support of this argument the appellant submitted information on seven comparable sales.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total assessment for the subject of \$26,021. The subject's assessment reflects a market value of \$291,063, or \$118.32 per square foot of living area, including land, when applying the 2010 three year average median level of assessment for class 2 property under the Cook County Real Property Assessment Classification Ordinance of 8.94% as determined by the Illinois Department of Revenue. In support of its contention of the correct assessment, the board of review submitted information on four equity comparables.

At hearing, counsel for the appellant reaffirmed the evidence previously submitted. The board of review analyst offered seven printouts from the Cook County Recorder of Deeds' website, which indicated that a *lis pendens* was issued against each of the seven sales comparables submitted by the appellant. The Board took judicial notice of these seven printouts. The board of review analyst argued that, because a *lis pendens* was issued for the seven comparables, these were all compulsory sales.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. 86 Ill.Admin.Code §1910.63(e). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. 86 Ill.Admin.Code §1910.65(c). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

Initially, the Board finds that the comparable sales submitted by the appellant were "compulsory sales." A "compulsory sale" is defined as

- (i) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale" and
- (ii) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant

to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete.

35 ILCS 200/1-23. Real property in Illinois must be assessed at its fair cash value, which can only be estimated absent any compulsion on either party.

Illinois law requires that all real property be valued at its fair cash value, estimated at the price it would bring at a fair voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is likewise ready, willing, and able to buy, but is not forced to do so.

Board of Educ. of Meridian Community Unit School Dist. No. 223 v. Illinois Property Tax Appeal Board, 961 N.E.2d 794, 802, 356 Ill.Dec. 405, 413 (2d Dist. 2011) (citing Chrysler Corp. v. Illinois Property Tax Appeal Board, 69 Ill.App.3d 207, 211, 387 N.E.2d 351 (2d Dist. 1979)).

However, the Illinois General Assembly recently provided very clear guidance for the Board with regards to compulsory sales. Section 16-183 of the Illinois Property Tax Code states as follows:

The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer.

35 ILCS 200/16-183.

The effective date of Section 16-183 is July 16, 2010, after the lien date for tax year 2010. Id. Therefore, it must be determined whether Section 16-183 can be retroactively applied. "In the absence of an express provision regarding the Act's temporal reach, [the Board] examine[s] whether the Act is substantive or procedural in nature." Doe v. University of Chicago, 404 Ill.App.3d 1006, 1012, 939 N.E.2d 76, 81 (1st Dist. 2010) (citing Deicke Center-Marklund Children's Home v. Illinois Health Facilities Planning Board, 389 Ill.App.3d 300, 303, 906 N.E.2d 64 (2009)). "If the Act is procedural in nature, it may be applied retroactively as long as such retroactive application will not impair rights [either party] possessed when acting, increase [either party]'s liability for past conduct, or impose

new duties with respect to transactions already completed." Doe, 404 Ill.App.3d at 1012, 939 N.E.2d at 81 (citing Deicke Center, 389 Ill.App.3d at 303, 906 N.E.2d 64). "Procedure is the machinery for carrying on the [appeal], including pleading, process, evidence and practice . . ." Doe, 404 Ill.App.3d at 1012, 939 N.E.2d at 81 (citing Deicke Center, 389 Ill.App.3d at 303, 906 N.E.2d 64). Furthermore, "In the absence of legislative intent to the contrary, a court is to apply the law in effect at the time of its decision, unless to do so results in manifest injustice." People v. Boatman, 386 Ill.App.3d 469, 472, 898 N.E.2d 277, 280 (4th Dist. 2008) (citing People v. Hardin, 203 Ill.App.3d 374, 376, 561 N.E.2d 326, 327 (1990)).

The Board finds that Section 16-183 is a procedural act because it simply defines what evidence the Board must consider. Imposing Section 16-183 prior to the effective date does not create or impair any rights for either party, does not increase either party's liability for past conduct, does not impose new duties with regard to transactions already completed, and does not result in manifest injustice.

Therefore, the Board is statutorily required to consider the compulsory sales submitted by the appellant. In doing so, the Board finds that the best evidence of the subject's market value is the comparable sales submitted by the appellant.

The Board finds the best evidence of market value to be appellant's comparables #1, #2, #5, and #7. These comparables sold for prices ranging from \$37.88 to \$78.89 per square foot of living area, including land. The subject's assessment reflects a market value of \$118.32 per square foot of living area, including land, which is above the range established by the best comparables in this record. Based on this record, the Board finds a reduction in the subject's assessment is justified.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Ronald R. Cuit

Chairman

K. L. Fern

Member

Tracy A. Huff

Member

Mario Morris

Member

J. R.

Member

DISSENTING:

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: September 19, 2014

Allen Castrovillari

Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.